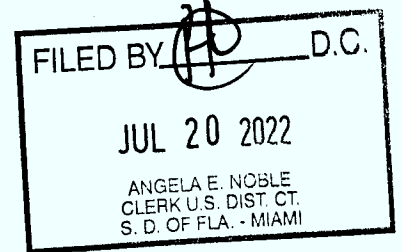


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA



COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

Case No: 1:22-cv-21520

v.

DAMIAN CASTILLA, DCAST CAPITAL  
INVESTMENTS LLC, and FIVE TRADERS  
LLC,

Defendants.

**DEFENDANT DAMIAN CASTILLA'S MOTION TO  
SET ASIDE DEFAULT**

The Defendant, DAMIAN CASTILLA, pro se, files this Motion to Set Aside the Default entered by the Clerk of the Court pursuant to Rule 7(B) and Rule 55 of the Federal Rules of Civil Procedure as grounds therefore would state:

1. Defendant has suffered emotionally from the accusations made in the criminal proceeding referred to in paragraph 38 of the Complaint and this Complaint and unable to focus sufficiently to defend this action. Defendant did not understand the consequences of not filing an Answer. Defendant was unaware of his right to assert his privilege against self-incrimination as guaranteed by the Fifth Amendment to the Constitution of the United States of America in response to certain allegations within the Complaint.

2. Defendant has suffered financially and been unable to retain competent counsel to file an appearance and defend this action.

3. Defendant has meritorious defense that will be presented once the criminal prosecution is resolved.

4. To avoid waiver of Defendant's Fifth Amendment privilege against self-incrimination as guaranteed by the United States Constitution, Defendant was required to raise said privilege in response to numerous allegations within the complaint.

5. The Defendant has admitted certain allegations in good faith.


6. The Default by the Clerk of the Court was recently entered, July 8, 2022 (12 days ago). No Default Judgment has been entered by this Court at this time and so Plaintiff will not be prejudiced by proving the claims it would otherwise be required to prove but for the entry of the Default by the Clerk of the Court.

WHEREFORE, Defendant respectfully requests that this Court set aside the Default entered by the Clerk of the Court and accept the Defendant's Answer filed concurrently with this Motion as his defense at this point in time.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail this 20 day of JULY 2022 to: Thomas L. Simek (tsimek@cftc.gov) and Nicholas S. Sloey (nsloey@cftc.gov), Commodity Futures Trading Commission, 2600 Grand Boulevard, Suite 210, Kansas City, MO 64108.

Damian Castilla, pro se  
8181 SW 122 Ave.  
Miami, FL 33183

  
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Damian Castilla